

REMARKS

Claims 33-40 are pending in this application. By this Amendment Claims 16-23 are canceled and claims 33-40 are added. Favorable consideration of the claims is respectfully requested in light of the following Remarks.

Claim Rejections under 35 U.S.C. §112, Second Paragraph

Claims 16-23 have been rejected under 35 U.S.C. § 112, Second Paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have canceled claims 16-23. Accordingly, Applicants respectfully request withdrawal of the rejection.

Claim Rejections under 35 U.S.C. §103(a)

Claims 16-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over DE 197 06 692 in view of Rixon et al (hereinafter referred to as “Rixon”). Applicants have canceled claims 16-23. However, new claims 33-40 substantially include the subject matter of canceled claims 16-23, thus Applicants respectfully traverse the rejection and will address the rejection below.

DE 197 06 692 discloses a pedal arrangement having at least one pedal. The pedal swivels about a swiveling axis and is disposed on a bearing block. The bearing block for the pedal is fixed to the vehicle body. A lever extension on the pedal projects beyond the swiveling axis to an opposite side, and a transmitting rod, which extends in a longitudinal direction of the vehicle, is linked at one end in a force-transmitting manner to the lever extension. A lever arm of a double-armed lever rocker is linked to another end of the transmitting rod. An opposite lever arm of the double-armed lever rocker is linked to a plunger rod of the brake operating booster. The lever arm is swivellably disposed on a front wall by a second bearing block. As best illustrated in Figure 2, the brake operating unit and the pedal are attached to separate bearing blocks. Thus, the position of the pedal relative to the brake operating unit changes when a frontal impact occurs. The second bearing block, along with the double-armed lever and plunger, move forward into the vehicle. The first bearing block and the brake pedal remain relatively unaffected.

In contrast, Applicants amended claims are directed towards an actuation device wherein the pedal lever and the generator jointly swivel in relation to the pedal stand. Thus, during a frontal impact, the position of the pedal lever relative to the generator is generally unaffected during the displacement. The frontal impact causes the second leg of the pedal lever to act on the generator, thereby performing the same function as if a force was asserted on the first leg of the pedal lever.

The Rixon reference discloses an adjustable pedal assembly. However, the Rixon reference does disclose a pedal assembly wherein a pedal lever and a generator jointly swivel in relation to a pedal stand. Accordingly, DE 197 06 692, alone or in combination with Rixon, fail to disclose, teach or suggest all of the claim limitations of Applicant's invention. Accordingly, Applicant requests withdrawal of the rejections pertaining to claims 33-40 in view of the amendments and comments above. Applicants respectfully request withdrawal of the rejection.

Regarding claim 18, now dependent claim 35, the Office action states that the functional limitation of a pedal lever initiating brake actuation independent of a driver in the case of a vehicle deformation may be an inherent characteristic of the reference combination. While a pedal lever initiating brake actuation independent of a driver in the case of a vehicle deformation may be an inherent characteristic, it is not critical for establishing novelty in Applicants claimed invention. As stated above, neither DE 197 06 692 nor the Rixon reference, alone or in combination, disclose an actuation device wherein the pedal lever and the generator jointly swivel in relation to the pedal stand as claimed in independent claim 33. Thus, the limitation of dependent claim 35 is not critical for establishing novelty. However, since independent claim 33 has patentable subject matter, dependent claim 35 is allowable for at least the same reasons stated for claim 33.

The Office action indicates that the prior art of record and not relied upon is considered very pertinent to the claimed invention. In particular, the Office action cites various patents disclosing pedal mechanisms. Applicants have reviewed the prior art and found them to be no more pertinent than the prior art cited in rejecting claims 16-23.

Attorney Docket: (AP9658)64098-0895
S.N.: 10/018,450

CONCLUSION

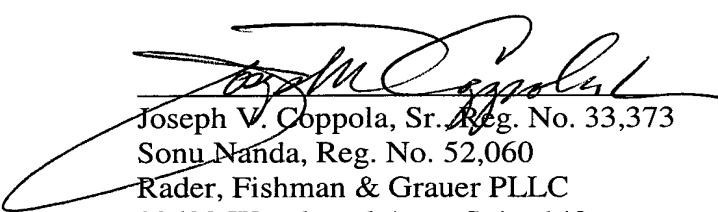
Should the Examiner believe anything further would be desirable in order to place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

It is believed that any additional fees due with respect to this paper have already been identified. However, if any additional fees are required in connection with the filing of this paper, permission is given to charge account number 18-0013 in the name of Rader, Fishman and Grauer PLLC.

Respectfully submitted,

Date: October 22 , 2003
Customer No. 010291
Telephone No. (248) 594-0600

R0201309.DOC


Joseph V. Coppola, Sr. Reg. No. 33,373
Sonu Nanda, Reg. No. 52,060
Rader, Fishman & Grauer PLLC
39533 Woodward Ave., Suite 140
Bloomfield Hills, MI 48304
Attorneys for Applicants